



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: FEBRUARY 01, 2023

IN THE MATTER OF:

Appeal Board No. 626416

PRESENT: MICHAEL T. GREASON, MEMBER

The Department of Labor issued the initial determination holding the claimant eligible to receive benefits. The employer requested a hearing and objected contending that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance on behalf of the employer. By decision filed October 12, 2022 (), the Administrative Law Judge overruled the employer's objection and sustained the initial determination.

The employer appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant has worked for the employer as a full-time patient transport professional since November 7, 2016. On January 31, 2022, the claimant took a leave of absence from work due to medical issues. He applied for and was paid short-term disability and then long-term disability through the employer's insurance carrier. The claimant is on an approved leave of absence until October 31, 2022. The employer considers the claimant an employee during his leave of absence. He is expected to return back to work on October 31, 2022.

OPINION: The credible evidence establishes that the claimant took a leave of

absence from work on January 31, 2022 due to medical reasons. There is no evidence in the record that the claimant could no longer work for the employer. Nor is there any evidence that the claimant was advised by his doctor to quit his employment due to medical reasons. We note that when called for the hearing, the claimant elected not to appear to provide testimony and evidence regarding his leave of absence or his separation from employment. We, therefore, accept the testimony of employer's witness that the claimant is still an employee of the employer while he is on leave of absence from work. As the claimant has failed to provide testimony and evidence regarding his separation, we conclude that the claimant's separation from employment was not only voluntary on the part of the claimant but was also without good cause.

DECISION: The decision of the Administrative Law Judge is reversed.

The employer's objection, that the claimant should be disqualified from receiving benefits because the claimant voluntarily separated from employment without good cause, is sustained.

The initial determination, holding the claimant eligible to receive benefits, is overruled.

The claimant is denied benefits with respect to the issues decided herein.

MICHAEL T. GREASON, MEMBER